

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CLAIR REYNOLDS, et al.,

Plaintiffs,

Case No. 19-11745

vs.

HON. MARK A. GOLDSMITH

FCA US, LLC,

Defendant.

**ORDER (1) GRANTING IN PART PLAINTIFFS' MOTION TO EXTEND DEADLINES
IN SCHEDULING ORDER (Dkt. 80) AND (2) AMENDING SCHEDULING ORDER
(Dkt. 52)**

Plaintiffs have filed an unopposed motion to extend the deadlines in this matter's scheduling order (Dkt. 80). This motion follows two proposed orders submitted by the parties stipulating to extensions, which the Court declined to enter. For the reasons that follow, the Court grants Plaintiffs' motion to extend the parties' deadlines in part, and it amends the dates in the scheduling order (Dkt. 52).

This matter was originally assigned to the Honorable Arthur J. Tarnow, who entered a scheduling order on August 5, 2021. Despite the deadline for fact discovery set for July 29, 2022, the parties have not been diligently pursuing discovery. As they explain in their briefing on Plaintiffs' separate motion to compel discovery, Plaintiffs served their requests for production on Defendant FCA US, LLC on August 27, 2021. See Pl. Mot. to Compel Discovery at 1 (Dkt. 79); Def. Resp. to Mot. to Compel Discovery at 2 (Dkt. 81). Following months of negotiation, the parties were not prepared to submit a proposed protocol for electronically stored information (ESI) or an accompanying protective order until January 18, 2022. See Pl. Def. Resp. to Mot. to Compel

Discovery at 2. Why it took nearly five months to negotiate these protocols is never adequately explained in the briefing.

With the unfortunate passing of Judge Tarnow on January 21, 2022, the parties waited until the case was reassigned to the Honorable Judith E. Levy before FCA submitted the ESI protocol and protective order to the Court on February 22, 2022. See id. However, the parties could have acted sooner, as there is always a presiding judge able to “act in the absence or unavailability of the assigned judge.” E.D. Mich. LR 77.2(b).

Although Judge Levy promptly entered the protective order on March 1, 2022 (Dkt. 59) and an order regarding the ESI protocol on March 2, 2022 (Dkt. 60), the parties remained mired in disputes about the progress of discovery, see Pl. Br. in Supp. Mot. to Extend at 5–7 (Dkt. 80); Def. Resp. to Mot. to Compel Discovery at 3–4. And despite their approaching deadlines, neither party moved to seek the Court’s intervention to expedite discovery until Plaintiffs’ motion to compel filed July 1, 2022—some ten months after service of the initial requests for production.

Thus, since well before this case was reassigned to the undersigned on April 20, 2022, progress has been thwarted by a lack of alacrity on the part of counsel for both sides. The Court would be justified in denying the requested extensions. However, in the interests of justice, the parties will be given additional time to conduct discovery. At the same time, the schedule will be adjusted so that the class certification and summary judgment will be addressed promptly.

IT IS ORDERED that the Case Management and Scheduling Order is amended as follows:

<u>EVENT</u>	<u>DEADLINE</u>
Fact discovery	September 15, 2022
Expert Witness List/Disclosures/Report - Plaintiff	September 29, 2022
Plaintiffs’ motion for class certification	September 29, 2022
Expert Witness List/Disclosures/Report - Defendant	October 13, 2022

Expert discovery	October 27, 2022
Defendant's response in opposition to class certification	November 10, 2022
Plaintiffs' reply in support of class certification	November 21, 2022
Dispositive motions and motions to limit/exclude expert testimony	December 5, 2022

SO ORDERED.

Dated: July 11, 2022
Detroit, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or first-class U.S. mail addresses disclosed on the Notice of Electronic Filing on July 11, 2022.

s/William Barkholz for Karri Sandusky
WILLIAM BARKHOLZ
Case Manager